

FORM 37: Notification to DEDE and Commission on Issuance of Enforcement Actions Older Than 18 Months

MEMORANDUM TO : _____,
Deputy Executive Director for (title)

FROM: _____, Director
Office of Enforcement

SUBJECT: (title of enforcement action) TO (name of licensee)
(EA-YY-XXX)

I intend to issue [Alternatively, use "I intend to authorize the Regional Administrator, Region __, to issue" or "I intend to authorize the Director, OE to issue"] in 5 days after the date of this memorandum, unless you direct otherwise, an enforcement action to (name of licensee). Because this enforcement action is being issued more than 18 months after the associated violations were identified, this notification is being provided in accordance with the Staff Requirements Memorandum, SECY-94-237, "Reducing Commission Review of Certain Enforcement Actions," dated October 20, 1994.

[This section should include a very brief statement of the enforcement action being issued, the number and severity level of the violations (problems) the action is based on, a brief description of the problem, and a brief discussion of the mitigation or escalation of the base civil penalty. This section should also include a brief discussion of any special circumstances of the case, such as if it involves wrongdoing, novel, or complex issues, or if the staff proposes to exercise discretion (including the basis for exercising discretion).]

[This section should provide a chronology of the case, including milestones, such as, when the allegation was received, when the violation occurred, when the inspection or investigation was completed, when the case was referred to the Department of Justice (DOJ), when DOJ declined the case, when the Department of Labor (DOL) ruled, when an enforcement conference was held, etc.]

[This section should explain the rationale for the staff's proposal with a specific focus on what effect the delay has on the proposed action. This would include consideration of factors such as, but not limited to: 1) how the effectiveness of the proposed enforcement action would likely to be affected by the delay, 2) whether the focus of the action should be modified as a result of the delay, 3) whether the delay has affected our ability to find or obtain credible evidence from organizations or individuals, 4) whether the expected benefits to public health and safety justify using limited NRC resources to pursue this action. The following is a sample discussion, e.g.:

"The staff determined that the safety significance of this case did not warrant bringing an action before DOJ completed its review and reached a decision. Notwithstanding the time that has elapsed since the violations occurred, the staff believes that it is appropriate to issue the proposed Notice of Violation to the Licensee and letter to the individual in order to: 1) reach closure with the Licensee following the August 2, 1994 enforcement conference, 2) emphasize the need for licensee officials to ensure that all communications with the NRC are complete and accurate, and (3) emphasize the need for licensee employees to act with candor and integrity."]

If you have any questions concerning this case, I would be pleased to discuss them with you.

[Note that the Commissioners' assistants should be on the "cc" list.]